

Foundation status; support received prior to change in operations. Support received by an organization prior to changes made in its operations to enable it to qualify under section 501(c)(3) of the Code is not taken into account in determining its foundation status under section 509.

Advice has been requested whether support received by an organization in a year in which it was not described in section 501(c)(3) of the Internal Revenue Code of 1954 may be taken into account in determining its foundation status under section 509(a).

'The organization was formed on January 1, 1973, but was not described in section 501(c)(3) of the Code until it made changes in its operations. These changes were effective January 1, 1974, and an application for recognition of exemption under section 501(c)(3) was filed on January 15, 1974. Exemption was recognized effective as of January 1, 1974, because only from that date was the organization operated exclusively for section 501(c)(3) purposes. The organization has received support from various sources, including the general public.

'Section 509(a) of the Code provides that the term 'private foundation' means an organization described in section 501(c)(3) other than one described in, among other sections, section 170(b)(1)(A)(vi) or section 509(a)(2).

'Sections 170(b)(1)(A)(vi) and 509(a)(2) of the Code exclude from private foundation classification certain types of charities receiving broad public financial support.

'In determining the extent of that financial support, the Code and regulations require a computation of the organization's normal sources of support. In such computation it is necessary to look to years prior to years prior to the year in question. See sections 1.170A-9(e)(4) and (5) and 1.509(a)-3(c) and (e) of the Income Tax Regulations.

The question presented is whether the support received by the organization in 1973, a year in which it was not described in section 501(c)(3) of the Code, may be used in making the foundation status determination under section 170(b)(1)(A)(vi) or section 509(a)(2).

'When the regulations under sections 170(b)(1)(A)(vi) and 509(a)(2) of the Code require that an organization look to prior years to determine whether it has received broad public financial support they presuppose that the organization was described in section 501(c)(3) for such years and, therefore, that it was organized and operated exclusively for charitable purposes. The organization here was not operated exclusively for section 501(c)(3) purposes prior to January 1, 1974. Accordingly, support received by this organization prior to January 1, 1974, will not

be considered under section 170(b)(1)(A)(vi) or 509(a)(2) of the Code in determining its foundation status under section 509(a).